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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,761

02/20/2004

Sungdo Moon

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22879 7590 01/30/2008

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FORT COLLINS, CO 80527-2400

EXAMINER

WANG, BEN C

ART UNIT

PAPER NUMBER

2192

NOTIFICATION DATE

DELIVERY MODE

01/30/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	Application No. 10/783,761	Applicant(s) <span style="float: right;">mn</span> MOON ET AL.	
	Examiner Ben C. Wang	Art Unit 2192	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 3-14 is/are allowed.
- 6) ☒ Claim(s) 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. Applicant's amendment dated October 29, 2007, responding to the Office action mailed July 27, 2007 provided in the rejection of claims 1 and 3-20, wherein claims 1, 10 and 15 have been amended.

Claims 1 and 3-14 are allowed.

Claims 15-20 remain pending in the application.

***Claim Rejections – 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 15-20 are rejected under 35 U.S.C 101 because the claims are directed to non-statutory subject matter.

3. **As to Claim 15**, recites "a computer-readable medium embodying a compiler" to include "a computer data signal embodied in a carrier wave" in communication media, e.g., *electromagnetic waves* in P. 20, lines 21-23 in the specifications. Signals and carrier waves do not fall within any class of statutory subject matter, and thus the claim is not limited to statutory subject matter. Please see Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (1300 OG 142), Annex IV, Section (C) for details.

4. **As to claims 16-20**, they do not cure the deficiency of base claim 15, and also are rejected under 35 U.S.C. 101 as set forth above.

***Allowable Subject Matter***

5. Claims 1 and 3-14 are allowed.

6. The following is an examiner's statement of reasons for allowance:

As pointed out by Applicant, the prior art of record fails to teach and/or suggest "in a first phase of compiling process, the compiling process comprising a front-end phase, an inter-procedural analysis phase in which cross-module analysis is performed on a plurality of modules, and a back-end phase in which the plurality of modules are processed individually, the inter-procedural phase being the first phase; determining to in-line a first function in a first module into a second function in a second module but not performing said in-line during the first phase; providing the location of the first function; providing instructions for in-lining to be performed in a second phase of the compiling process; in the second phase of the compiling process, the back-end phase being the second phase, following the instructions to in-line code of the first function into the second function in the second module without accessing the first module", as recited in independent claim 1 and similarly recited in independent claim 10. (Remarks, pages 7-9)

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7. Claims 3-9 and 11-14 are considered allowable by virtue of their dependence on allowable independent claims 1 and 10, respectively.

#### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ben C. Wang whose telephone number is 571-270-1240. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BCW

BW

January 16, 2008



ERIC B. KISS  
PRIMARY EXAMINER